

### **REMARKS/ARGUMENTS**

Claims 1-34 are pending in the application. The Examiner has withdrawn Claims 25-34 from consideration and has rejected Claims 1-24. More specifically, Claims 1-14 have been rejected under 35 USC §112 as being indefinite; Claims 1, 5, 6, 10, 14, 15, 17-20, 22, and 24 have been rejected under 35 USC §102(e) as being anticipated by U.S. Patent No. 6,077,163 to Walker et al. (hereinafter "Walker"); and Claims 2, 3, 4, 7, 8, 9, 11, 12, 13, 16, 21, and 23 have been rejected under 35 USC §103(a) as being unpatentable over Walker in view of U.S. Patent No. 6,315,662 to Jordasch et al. (hereinafter "Jordasch"), U.S. Patent No. 5,711,708 to Fischer (hereinafter "Fischer"), and/or U.S. Patent No. 6,147,696 to Smith et al. (hereinafter "Smith").

#### **I. Claims withdrawal as result of Election**

Although Applicant respectfully disagrees with Examiner's assertion that the previously-filed election was filed without traverse (Paper No. 02122004), Applicant hereby cancels Claims 25-34. However, Applicant reserves the right to pursue the subject matter in canceled Claims 25-34 in subsequent applications, and such cancellations are not to be viewed as a forfeiture in any potential patent rights therein.

#### **II. Information Disclosure Statement**

Applicants respectfully acknowledge the Examiner's statements with respect to proper form of an Information Disclosure Statement. Accordingly, a Supplemental Information Disclosure Statement is being filed herewith.

#### **III. Claim Objections**

Claim 15 has been amended to correct the typographical error pointed out by the Examiner.

**IV. Claim Rejections based on 35 USC § 112**

The Examiner has rejected Claims 1-14 for failing to particularly point out the claimed invention. Accordingly, Claim 1 has been amended to alleviate antecedent basis errors pointed out by the Examiner.

**V. Claim Rejections based on 35 USC § 102**

The Examiner has rejected Claims 1, 5, 6, 10, 14, 15, 17-20, 22, and 24 as being anticipated by Walker. The rejected claims have been amended to more succinctly claim a gaming method that provides a playing time that is indeterminate at the outset of play. Walker discloses a flat rate play session of pre-established duration and does not disclose a play session whose duration is variable or uncertain. Walker discloses a selected time period of play that may be selectively altered when the player buys more time. Further, the phrase "a pre-established duration" (or, a "pre-determined period of time") are used repeatedly throughout Walker, thus the concept of indeterminate and variable play time are distinct and not disclosed. More specifically, while Walker does disclose that "[a] player of the apparatus may play the gaming program a variable number of times based on the time period and the skill level of the player", the amount of play time itself is unaffected, it remains "pre-established" and "pre-determined" in all cases.

**VI. Claim Rejections based on 35 USC § 103**

The Examiner rejected Claims 2, 8, 9, 16, and 23 as being unpatentable over Walker in view of Jordasch. Accordingly, Claims 2, 8, 9, 16 and 23 have been canceled. However, Applicant reserves the right to pursue the subject matter in canceled Claims , 8, 9 and 16 in subsequent applications, and such cancellations are not to be viewed as a forfeiture in any potential patent rights therein.

The Examiner rejected Claims 3, 4, 12, 13, and 21 as being unpatentable over Walker in view of Fischer. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. In re Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). More specifically, the Examiner asserts "[i]t is well known throughout the art to extend time periods based on events that occur in the game." Applicant agrees with this statement with respect to non-gambling video games. However, Applicant respectfully traverses such an assertion when applied to gambling games. It is not obvious for a casino operator to increase their risk of loss to allow a player to have extended play times without requiring additional monetary input from the player. Thus, there is no motivation to combine the elements of Walker and Fischer. Further, there is little commonality between non-gambling video games and gambling games, as such it is one aspect of the present invention to bridge the gap between these dissimilar groups to thus make gambling more appealing to the younger players of non-gambling games and to make gambling more exciting by providing a gambling game with an indeterminate play time.

Further, Fisher discloses a timing circuit whereby "the subsequent period of time to play is variable." Fisher, however, does not teach, nor is it obvious that the primary period of time to play is variable or indeterminate from the start of play.

The Examiner rejected Claim 7 as being unpatentable over Walker in view of Smith. Accordingly, Claim 7 has been canceled. However, Applicant reserves the right to pursue the subject matter in canceled Claim 7 in subsequent applications, and such cancellation is not to be viewed as a forfeiture in any potential patent rights therein.

The Examiner rejected Claim 11 as being unpatentable over Walker in view of Fischer and

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further in view of Smith. Accordingly, Claim 11 has been canceled. However, Applicant reserves the right to pursue the subject matter in canceled Claim 7 in subsequent applications, and such cancellation is not to be viewed as a forfeiture in any potential patent rights therein.

**VII. Amendments to the Drawings**

Figs. 2 and 6 have been amended to more succinctly depict the present invention. More specifically, Fig. 2 now denotes buttons that reflect the indeterminate nature of one embodiment of the present invention. Fig. 6 now shows a selection of wager instead of a predetermined time period of play. Applicant has taken care ensure that no new matter has been added.

Based upon the foregoing, Applicant believes that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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